

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1977.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	November 18, 2002
DATE OF REPORT:	December 17, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	February 11, 2003

COMPLAINT ISSUES:

Whether the Greenwood Community School Corporation and the Johnson County Special Services violated:

511 IAC 7-20-3(a) by failing to implement a system of personnel development providing for the training and information dissemination to public agency personnel regarding the provision of a free appropriate public education.

511 IAC 7-20-3(c) by failing to submit, on a quarterly basis to the Division of Exceptional Learners, data that documents the type and content of professional training conducted.

511 IAC 7-21-2(c)(1)(C) and (2) by failing to provide and document preservice and inservice training to paraprofessional(s) regarding information about the specific needs and characteristics of the student with whom the professional(s) will be working.

511 IAC 7-26-12(c) by failing to provide specialized inservice training to professional and paraprofessional staff working with a student with "other health impairments."

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to allow the student additional time to complete the statewide assessment;
- b. failing to provide the parent with a copy of the goal pages from the student's IEP at the end of each grading period, for the 2001 to 2002 and current school years, that update progress toward annual goals;
- c. failing to follow the strategies and procedures in the student's behavior management plan, specifically:
 1. utilizing a discipline referral for wearing his coat in class;
 2. assigning a conduct slip for tardiness;
 3. utilizing a discipline referral for disrespect during the Pledge;
 4. failing to provide the student with interaction one time per week with the program support teacher; and
 5. sending the student out to the hall instead of redirecting him and sending him to the counseling office.
- d. failing to have the student's teacher check the student's daily agenda book; and
- e. failing to inform the parents in writing about the student's missing assignments.

FINDINGS OF FACT:

1. The Student is 14 years old, attends the local middle school (the School), and qualifies for special education and related services under the category of other health impaired.
2. The Division database for the comprehensive system of personnel training (CSPD) indicates the special education district (the District) has submitted quarterly reports to the Division regarding their provision of ongoing training for staff development. General and special education staff, administrators, advocates, and family members have attended the trainings. The District has provided, thus far, trainings for 1,174 people during the four quarters of 2002, covering 18 of 20 optional special education issues identified by the Division as those typically addressed in multi-year periodic trainings.
3. The School and teacher of record (TOR) provided five preservice and inservice training activities between August 14 and October 16, 2002, for teaching staff who work directly with the Student. All middle school teachers received required training to work with students with specific disabilities, including "other health impaired," specifically Tourette's syndrome, on November 2 and 12, 2002. The teachers assigned to the Student also received IEP information, including copies of the Student's BIP. The paraprofessional assigned specifically to the Student received individual training from the TOR regarding the Student's needs and IEP, including the BIP, at the beginning of the school year. Additional information was provided as needed on a daily basis. Another paraprofessional assigned to the classroom in which the Student is enrolled received a copy of the Student's IEP, but did not receive the BIP pages. The two paraprofessionals have 3 and 5 years previous experience serving special education students, including frequent preservice and inservice trainings in previous years. Instructional assistants' handbooks for working with special education and general education students with special needs and a guidebook and inservice trainings regarding special education and students with various disabilities were provided for them, as well as all new paraprofessionals in the special education district. The TOR has previously taught two other students with Tourette's syndrome, and the paraprofessional assigned to the Student has also worked with other students with Tourette's syndrome who have attended the school.
4.
 - a. The Student's IEP says additional time will be provided as needed to complete the statewide assessment. The Student was offered pre-arranged additional time to complete the statewide assessment test in a setting that would not disrupt the other students while they took their tests, but he refused the offer. The Student did not return on time from a break between tests, delaying all students from beginning the next subtest. Extended break time between subtests was not included in the IEP as part of the need for additional time.
 - b. The Student's IEP, written March 15, 2002, states the School will provide the parent with a copy of the goal pages from the student's IEP at the end of each grading period to inform the parents of progress toward IEP goals. The School provided midterm reports and quarterly report cards to inform the parents of progress, but they acknowledge that they have not provided copies of the goal pages to document progress.
 - c. The Student's IEP, page 8, provides for a behavior improvement plan (BIP) that replaces the school discipline plan in the Student Handbook, with different individualized strategies and procedures for consequences for incidents of inappropriate behavior. Conduct slips are given for rude and mean-spirited behavior, discipline referral slips equal four conduct slips, but neither are cumulative toward suspensions or an expulsion in the Student's BIP, and are to be preceded by three verbal warnings. The slips are sent to the TOR so that the behaviors can be addressed. The Student's BIP also provides for verbal reminders to not be tardy for the next class and to contact the Complainants when a pattern of tardiness occurs, instead of assigning conduct slips. Referrals are made to the counseling office for talking and silliness so the Student can regain his composure. The Student is to be provided

with an opportunity to interact with the program support teacher one time per week, as needed, and to be sent to either the school office or the counseling office to have private time away from class to regain his composure. The Student had the following incidents recorded on the school's discipline form used to document cumulative infractions and subsequent consequences, as found in the Student Handbook: A discipline referral for wearing his coat in class; a conduct slip for tardiness; and a discipline referral for disrespect during the Pledge. In addition, the Student was sent out to the hallway to compose himself, and he had only met with the program support teacher during the current school year on four occasions prior to November 18, 2002, but they made verbal contact frequently. The previous school year, the Student's behaviors were also recorded on the same discipline record form, without noting if verbal warnings were given, and the Student received the same consequences as in the Student Handbook.

- d-e. The IEP indicates the Student is to complete the assignment book by listing homework and assignments, and the special education teacher is to check the book and add or change anything needed to correctly inform parents of the assignments and homework. The Complainants were not notified in the assignment book of four missing science assignments for the first grading period, and the School reports the TOR has checked the assignment book on all but approximately four occasions this school year.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the District maintains a system of personnel development and provides ongoing training and information dissemination to staff and other interested parties regarding the provision of a free appropriate public education. Therefore, no violation of 511 IAC 7-20-3(a) is found.
2. Finding of Fact #2 indicates that the District has submitted to the Division data that documents the type and content of professional training conducted for its staff and other interested parties by means of quarterly reports. Therefore, no violation of 511 IAC 7-20-3(c) is found.
3. Finding of Fact #3 indicates that the District has provided and documented preservice and inservice training provided for the paraprofessionals. IEP information about the specific needs and characteristics of the Student, including the BIP, was only fully explained to one of the two paraprofessionals who are currently working with the Student. Therefore, a violation of 511 IAC 7-21-2(c)(1)(C) is found.
4. Finding of Fact #3 indicates that the District has provided specialized training by means of individual and small group team preservice and inservice meetings for the teachers and paraprofessional assigned to the Student and general staff trainings provided for all teachers in the area of other health impaired and Tourette's syndrome. The District failed to fully inform the paraprofessional assigned to the classroom in which the Student participates of the behavioral needs in the BIP that are a component of the specialized programming associated with the Student's specific disability. Therefore, a violation of 511 IAC 7-26-12(c) is found.
5. With regard to failing to implement the Student's IEP as written, specifically:
 - a. Failing to allow the student additional time to complete the statewide assessment: Finding of Fact #4a indicates the IEP did not include additional time between subtests to reduce stress in order to be prepared to continue the statewide assessment. Therefore, no violation of 511 IAC 7-27-7(a) is found in this regard for failing to implement the Student's IEP as written.
 - b. Failing to provide the Complainants with a copy of the goal pages from the student's IEP at the end of each grading period, for the 2001 to 2002 and current school years, that update progress

toward annual goals: Finding of Fact #4b indicates the District acknowledges failure to provide goal pages to report progress toward annual goals. Therefore, a violation of 511 IAC 7-27-7(a) is found for failing to inform the Complainants periodically of progress toward annual goals.

- c. Failing to follow the strategies and procedures in the student's BIP for discipline and calming: Finding of Fact #4c indicates the Student did have access to the program support teacher, as needed, in compliance with the IEP. With regard to the use of conduct slips and discipline referrals for wearing a coat in school, disrespect during the Pledge, and tardiness, the discipline record form containing cumulative consequences indicates the Student was receiving the same cumulative consequences as in the school discipline policy, and the form contained no indication that three verbal warnings were first provided. In addition, staff assigned the Student to the hallway instead of the prescribed private sites to compose himself. Therefore, a violation of 511 IAC 7-27-7(a) is found with regard to following the strategies and procedures in the student's BIP for discipline and for locations where the Student can be directed to calm himself.
- d-e. Failing to have the Student's teacher check the student's daily agenda book and inform the parents in writing about the student's missing assignments: Finding of Fact #4d-e indicates the District acknowledges that the teacher failed to check the agenda book daily and did not inform the Complainants in writing of missing assignments. Therefore, a violation of 511 IAC 7-27-7(a) is found with regard to the teacher checking the student's assignment book and recording missing assignments for the Complainants.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

1. Distribute a memorandum to all special education staff and administrators clearly describing the following requirements of Article 7:
 - a. 511 IAC 7-21-2(c)(1)(C) with regard to providing preservice and inservice training to paraprofessional(s) regarding information about the specific needs and characteristics of the student with whom the professional(s) will be working, and developing a system to document the trainings.
 - b. 511 IAC 7-26-12(c) with regard to providing specialized preservice and inservices training activities for all professional and paraprofessional staff who work directly with students with disabilities.
 - c. 511 IAC 7-27-7(a) with regard to the requirement to implement all IEPs of students as written.
2. Convene a CCC meeting to review and revise, as needed, the Student's current IEP to determine if the following requirements are clearly stated:
 - a. The requirement to provide the parent with a copy of the goal pages from the student's IEP at the end of each grading period to update progress toward annual goals.
 - b. The strategies and procedures in the student's BIP for discipline and locations where the Student will be directed to calm himself.
 - c. The requirement for the Student's teacher to check the student's daily agenda book and inform the parents in writing about the student's missing assignments
3. Provide preservice and inservices training activities for all professional and paraprofessional staff who work directly with students with disabilities, but have not received specialized training to work directly with students eligible for special education under the category of "other health impairments" and Tourette's syndrome.

The following shall be forwarded to the Division by January 31, 2003:

- A copy of the memorandum and signatures of all staff, with their titles, who have received and read the above required memorandum shall be sent to the Division; and
- A copy of the CCC summary and any revisions to the Student's IEP clearly describing any changes determined by the CCC members to be necessary to clarify the required strategies, procedures, and accommodations.
- A copy of the agenda of training provided and listing of name and position of all individuals who received specialized training to work directly with students eligible for special education under the category of "other health impairments" and Tourette's syndrome.